

By Mr. LANGHAM: Petition of Rathmel (Pa.) Grange, No. 1264, favoring Senate bill 5842, to correct oleomargarine law; to the Committee on Agriculture.

By Mr. LOUD: Paper to accompany bill for relief of William Harmon, previously referred to the Committee on Invalid Pensions; to the Committee on Pensions.

By Mr. MOON of Tennessee: Paper to accompany bill for relief of Andrew J. Mullins; to the Committee on Invalid Pensions.

By Mr. O'CONNELL: Petition of Pacific Slope Congress, favoring improvement of the merchant marine; to the Committee on the Merchant Marine and Fisheries.

Also, petition of Washington Post, No. 32, Grand Army of the Republic, of Boston, Mass., against Civil War volunteer officers' retired list bill; to the Committee on Military Affairs.

Also, petition of 84 citizens of Boston, Mass., for the Walter Smith antiprize-fight bill; to the Committee on Interstate and Foreign Commerce.

By Mr. OLCOTT: Petition of Pacific Slope Congress, for exempting from toll American vessels passing through the Panama Canal; to the Committee on Railways and Canals.

By Mr. PADGETT: Paper to accompany bill for relief of John Rose; to the Committee on Invalid Pensions.

By Mr. PRINCE: Petition of soldiers in the Quincy Soldiers' Home, against volunteer officers' retired bill; to the Committee on Military Affairs.

By Mr. SHARP: Petition of Spiegel Post, Grand Army of the Republic, of Shiloh, Ohio, for an amendment of the age pension act; to the Committee on Invalid Pensions.

By Mr. SHEFFIELD: Petition of Business Men's Association of Pawtucket, R. I., against the Tou Velle bill; to the Committee on the Post Office and Post Roads.

By Mr. SIMS: Papers to accompany bills for relief of William J. Phillips and George W. Morris; to the Committee on Invalid Pensions.

By Mr. SLAYDEN: Paper to accompany bill for relief of Warren F. Hudson; to the Committee on Claims.

By Mr. SLEMP: Paper to accompany bill for relief of William Doss; to the Committee on Military Affairs.

By Mr. SULZER: Petition of Russell Sage Foundation, department of child hygiene, favoring increase of appropriations for educational work; to the Committee on Education.

By Mr. TILSON: Petition of Board of Education of New Hampshire, against passage of the Tou Velle bill; to the Committee on Education.

## SENATE.

WEDNESDAY, December 14, 1910.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.  
The VICE PRESIDENT resumed the chair.

The Journal of yesterday's proceedings was read and approved.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had passed the following bills:

S. 5651. An act to amend an act entitled "An act to incorporate the Washington Sanitary Housing Co.," approved April 23, 1904; and

S. 6910. An act to provide for the extension of Reno Road, in the District of Columbia.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 20875. An act to authorize certain changes in the permanent system of highways, District of Columbia;

H. R. 21331. An act for the purchase of land for widening Park Road, in the District of Columbia;

H. R. 22688. An act to authorize the extension of Thirteenth Street NW. from its present terminus of Madison Street to Piney Branch Road;

H. R. 24459. An act to provide for lighting vehicles in the District of Columbia; and

H. R. 29157. An act making appropriation for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1912, and for other purposes.

### PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented the petition of Samuel F. McCloud, of Long Branch, N. J., praying that pensions be granted to ex-Union prisoners of war, which was referred to the Committee on Pensions.

Mr. JONES presented the petition of J. Edward Buckley, of Chicago, Ill., praying that an investigation be made of certain charges brought by him, and also that authority be given to a committee of the Senate to investigate and consider general conditions of American citizens in the Republic of Mexico, railroad men, etc., which was referred to the Committee on Foreign Relations.

Mr. SMOOT presented a petition of Local Lodge No. 1451, Modern Brotherhood of America, of Salt Lake City, Utah, praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which was referred to the Committee on Post Offices and Post Roads.

Mr. SCOTT (for Mr. ELKINS) presented petitions of sundry citizens and business firms of Wheeling and Montgomery, W. Va., praying that San Francisco, Cal., be selected as the site for holding the proposed Panama Canal Exposition, which were referred to the Committee on Industrial Expositions.

He also (for Mr. ELKINS) presented a petition of the H. P. Moss Bookstore Co., of Parkersburg, W. Va., praying for the enactment of legislation to prohibit the printing of certain matter on stamped envelopes, which was referred to the Committee on Post Offices and Post Roads.

He also (for Mr. ELKINS) presented petitions of the Board of Trade of Kingwood, the Board of Trade of St. Marys, and the Fanciers' Club of Charleston, all in the State of West Virginia, praying that New Orleans be selected as the site for holding the proposed Panama Canal Exposition, which were referred to the Committee on Industrial Expositions.

He also (for Mr. ELKINS) presented a petition of Blennerhassett Lodge, No. 2159, Modern Brotherhood of America, of Parkersburg, W. Va., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Farmers' Institute of Roney's Point, W. Va., praying for the passage of the so-called parcels-post bill, which was referred to the Committee on Post Offices and Post Roads.

He also (for Mr. ELKINS) presented affidavits in support of the bill (S. 8031) granting an increase of pension to William T. McBee, which were referred to the Committee on Pensions.

He also (for Mr. ELKINS) presented an affidavit in support of the bill (S. 8298) granting a pension to Albert L. Graves, which was referred to the Committee on Pensions.

He also (for Mr. ELKINS) presented an affidavit in support of the bill (S. 1498) granting a pension to Samuel B. Swartz, which was referred to the Committee on Pensions.

He also (for Mr. ELKINS) presented an affidavit in support of the bill (S. 5327) granting a pension to C. H. Payne, jr., which was referred to the Committee on Pensions.

Mr. BRANDEGEE presented a petition of Local Union No. 15, Hatmakers' Association, of South Norwalk, Conn., praying for the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Local Union No. 15, Hatmakers' Association, of South Norwalk, Conn., praying that an investigation be made into the condition of dairy products for the prevention and spread of tuberculosis, which was referred to the Committee on Agriculture and Forestry.

Mr. LA FOLLETTE presented a petition of the mayor and board of aldermen of the city of Manitowoc, Wis., praying that an appropriation be made for the construction of an inner harbor of refuge at that city, which was referred to the Committee on Commerce.

He also presented petitions of Local Camp No. 126, Woodmen of the World, of Portage; of Genoa Lodge, No. 1190, of Genoa; of Cedar Lodge, No. 1012, of Saxon; of Edgar Lodge, No. 1220, of Edgar; of Unity Lodge, No. 1672, of New London; of Eau Claire Lodge, No. 1365, of Eau Claire; of Waterloo Lodge, No. 1210, of Waterloo; of Fairview Lodge, No. 1138, of Knowlton; of Oconto Falls Lodge, No. 1146, of Oconto Falls; of Forsyth Lodge, No. 1262, of Superior; of Townsend Lodge, No. 1712, of Townsend; of Milwaukee Lodge, No. 1374, of Milwaukee; of Island City Lodge, No. 1216, of Cumberland; of Maple Leaf Lodge, No. 1178, of Clear Lake; of West Allis Lodge, No. 1341, of West Allis; of North Star Lodge, No. 1245, of Frederic; of Twin River Lodge, No. 1090, of Portage; and of Fox River Lodge, No. 1576, of Appleton, all of the Modern Brotherhood of America, in the State of Wisconsin, praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mails as second-class matter, which were referred to the Committee on Post Offices and Post Roads.

Mr. CURTIS presented a petition of Department Encampment, Grand Army of the Republic, at Hutchinson, Kans., pray-

ing for the passage of the so-called per diem pension bill, which was referred to the Committee on Pensions.

He also presented petitions of Local Lodge No. 808, of Troy; of Sunflower Lodge, No. 723, of Parsons; of Queen City Lodge, No. 712, of Parsons; of Local Lodge No. 1720, of Wichita; of Local Lodge No. 782, of Clay Center; of Local Lodge No. 427, of Atchison; of Evergreen Lodge, No. 1499, of Kansas City; and of Local Lodge No. 802, of Havana, all of the Modern Brotherhood of America, in the State of Kansas, praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which were referred to the Committee on Pensions.

Mr. PILES presented a petition of the Chamber of Commerce of Seattle Wash., praying for the enactment of legislation to increase the compensation of judges of the Federal courts, which was referred to the Committee on the Judiciary.

He also presented a petition of Spokane Lodge, No. 1003, Modern Brotherhood of America, of Spokane, Wash., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mails as second-class matter, which was referred to the Committee on Post Offices and Post Roads.

Mr. ROOT presented petitions of sundry railroad employees of Adams Basin, Amboy Center, Batavia, Bergen, Buffalo, Cold Water, Corning, Crittenden, East Syracuse, Fayetteville, Fairport, Fancher, Lyons, Macedon, Newark, Phelps, Pittsford, Rochester, Savannah, Spencerport, Syracuse, Warner, West Batavia, Weedsport, and West Bloomfield, all in the State of New York, praying for the enactment of legislation authorizing higher rates of transportation for railroads, which were referred to the Committee on Interstate Commerce.

#### REPORTS OF COMMITTEES.

Mr. NELSON, from the Committee on Public Lands, to which was referred the bill (H. R. 27400) to repeal an act authorizing the issuance of a patent to James F. Rowell, asked to be discharged from its further consideration and that it be referred to the Committee on Indian Affairs, which was agreed to.

Mr. NELSON. I am directed by the Committee on Public Lands, to which was referred the bill (S. 9266) extending the operation of the act of June 10, 1910, to coal lands in Alabama, to report it without amendment, and I submit a report (No. 921) thereon. I call the attention of the junior Senator from Alabama [Mr. JOHNSTON] to the report.

The VICE PRESIDENT. The bill will be placed on the calendar.

Mr. BOURNE, from the Committee on Fisheries, to which was referred the bill (S. 8875) to authorize the establishment of fish-cultural stations on the Columbia River or its tributaries, in the State of Oregon, reported it with an amendment and submitted a report (No. 922) thereon.

Mr. HEYBURN, from the Committee on Public Lands, to which was referred the bill (S. 9405) to amend the act of Congress of June 25, 1910, providing for the issuance of certificates of indebtedness for the completion of Government reclamation projects, reported it with amendments and submitted a report (No. 923) thereon.

#### REPORT ON PELLAGRA.

Mr. SMOOT, from the Committee on Printing, to which the matter was referred, reported the following order, which was considered by unanimous consent and agreed to:

Ordered, That the manuscript entitled "The prevalence of pellagra" be printed as a public document.

#### ALASKA-YUKON-PACIFIC EXPOSITION.

Mr. SMOOT. The other day there was a communication from the President of the United States presented to the Senate on the question of participation in the Alaska-Yukon-Pacific Exposition. I find that there are certain illustrations made necessary that the report may be complete, and I ask that the Senate may allow those illustrations to be printed.

The VICE PRESIDENT. Is there objection?

Mr. BACON. I did not understand the Senator from Utah. Is it to be printed as a document or in the Record?

Mr. SMOOT. No; it is a report from the President of the United States on the Alaska-Yukon-Pacific Exposition. Under the law the Public Printer is not allowed to print illustrations in a report of any kind without a special order of the Senate.

Mr. BACON. It does not go in the Record?

Mr. SMOOT. Oh, not at all.

There being no objection, the order was reduced to writing, and agreed to, as follows:

Ordered, That Senate Document No. 671, Sixty-first Congress, third session, "Participation in the Alaska-Yukon-Pacific Exposition," be printed with illustrations.

CORA B. TAYLOR.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred Senate resolution 301, submitted by Mr. OLIVER on the 12th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay Cora B. Taylor, widow of Hawkins Taylor, late clerk to the Committee on Transportation Routes to the Seaboard, a sum equal to six months' salary, at the rate he was receiving by law at the time of demise, said sum to be considered as including funeral expenses and all other allowances.

KATIE BRISCOE.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred Senate resolution 302, submitted by Mr. GAMELE on the 12th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay to Katie Briscoe, widow of James Briscoe, late a hostler in Senate stables, a sum equal to six months' salary, at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

#### BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

Mr. SCOTT. On behalf of my colleague [Mr. ELKINS], who is detained at home by illness, I introduce sundry bills.

A bill (S. 9495) granting an increase of pension to William J. Davis (with accompanying paper);

A bill (S. 9496) granting an increase of pension to Andy Phillips (with accompanying paper);

A bill (S. 9497) granting an increase of pension to Frank A. Warthen;

A bill (S. 9498) granting an increase of pension to Robert R. Whiteman (with accompanying paper); and

A bill (S. 9499) granting an increase of pension to Jackson Sewell (with accompanying paper); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 9500) granting an increase of pension to Louis Putoz;

A bill (S. 9501) granting an increase of pension to Philo S. Bartow;

A bill (S. 9502) granting an increase of pension to James Haggerty;

A bill (S. 9503) granting an increase of pension to Ella G. Crawford;

A bill (S. 9504) granting an increase of pension to Alonzo C. Neff; and

A bill (S. 9505) granting an increase of pension to Mary Francis; to the Committee on Pensions.

By Mr. BURKETT (by request):

A bill (S. 9506) to provide for the excess storage capacity of reservoirs in projects under the reclamation act; to the Committee on Irrigation and Reclamation of Arid Lands.

By Mr. WETMORE:

A bill (S. 9507) granting a pension to George L. Prentice (with accompanying paper); to the Committee on Pensions.

By Mr. DICK:

A bill (S. 9508) for the relief of Ferdinand Tobe;

A bill (S. 9509) for the relief of Thomas Jory, Jarry, or Jury; and

A bill (S. 9510) for the relief of Charles J. Callahan; to the Committee on Military Affairs.

By Mr. BURTON:

A bill (S. 9511) for the relief of Martin Hulihan; to the Committee on Military Affairs.

By Mr. JOHNSTON:

A bill (S. 9512) to change the name of Rock Creek Church Road to that of Putnam Street, in the District of Columbia; to the Committee on the District of Columbia.

A bill (S. 9513) granting a pension to George P. Cross (with accompanying paper); to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 9514) granting a pension to Laura V. Geissinger;

A bill (S. 9515) granting an increase of pension to Henry F. Bartolet; and

A bill (S. 9516) granting an increase of pension to Dennis Conner; to the Committee on Pensions.

By Mr. CRANE:

A bill (S. 9517) granting an increase of pension to Charles H. Vidette; to the Committee on Pensions.



By Mr. WARREN:

A bill (S. 9518) granting an increase of pension to Carrie H. Travis (with accompanying paper); to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 9519) for the relief of James D. Gilman; to the Committee on Claims.

A bill (S. 9520) granting an increase of pension to James Short;

A bill (S. 9521) granting an increase of pension to Thomas Taylor; and

A bill (H. R. 9522) granting an increase of pension to Samuel M. Anderson; to the Committee on Pensions.

By Mr. BORAH:

A bill (S. 9523) granting an increase of pension to Norris E. Bancroft (with accompanying papers);

A bill (S. 9524) granting an increase of pension to Ira N. Levalley (with accompanying paper);

A bill (S. 9525) granting an increase of pension to David E. Banks (with accompanying papers);

A bill (S. 9526) granting a pension to Richard W. Berry (with accompanying paper);

A bill (S. 9527) granting an increase of pension to Darwin Coykendall (with accompanying papers); and

A bill (S. 9528) granting an increase of pension to Walter S. McArthur (with accompanying papers); to the Committee on Pensions.

By Mr. PAGE:

A bill (S. 9529) for the relief of Alexander Wilkie; to the Committee on Military Affairs.

By Mr. CURTIS:

A bill (S. 9530) to amend section 5 of an act entitled "An act providing for an inspection of meats for exportation, prohibiting the importation of adulterated articles of food or drink, and authorizing the President to make proclamation in certain cases, and for other purposes;" to the Committee on Finance.

By Mr. BORAH:

A bill (S. 9531) to provide for the erection of a public building at Caldwell, Idaho; to the Committee on Public Buildings and Grounds.

A bill (S. 9532) for the relief of the First National Bank of Cottonwood, Idaho (with accompanying paper); to the Committee on Claims.

#### AMENDMENTS TO APPROPRIATION BILLS.

Mr. JONES submitted an amendment authorizing the Secretary of the Interior to sell and convey the lands, buildings, and other appurtenances of the old Fort Spokane Military Reservation, now used for Indian school purposes, and to use such proceeds thereof in the establishment and maintenance of such new schools and administration of affairs as may be required by the Colville and Spokane Indians, in the State of Washington, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. CURTIS submitted an amendment proposing to appropriate \$100,000 for the enlargement, extension, remodeling, and improving the public building in the city of Topeka, Kans., etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. PERKINS submitted an amendment proposing to appropriate \$109,000 for continuing the improvement of the Sacramento River, Cal., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. OWEN submitted an amendment relative to the settlement of the claims of the loyal Shawnee and loyal Absentee Shawnee Indians against the United States, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate \$600,000 in settlement of the award found due the loyal Creek Indians, etc., which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. GORE submitted an amendment authorizing the Secretary of the Interior to use and expend for the benefit and improvement of the Fort Sill Indian School and the Kiowa Indian Agency in such proportions as he may determine, the proceeds arising from the sale of certain lands in Lawton, Okla., etc., intended to be proposed by him to the Indian appropriation bill,

which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment authorizing the Secretary of the Interior to sell certain lands being a part of the Kiowa Agency Reserve, Okla., the proceeds therefrom to be held by the department as a special fund, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

#### ADDITIONAL CLERKS TO COMMITTEE ON IMMIGRATION.

Mr. DILLINGHAM submitted the following resolution (S. Res. 305), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

*Resolved*, That the Committee on Immigration be, and is hereby, authorized to employ an additional clerk and two assistant clerks to edit and index the reports of the Immigration Commission, all of which have been referred to that committee and ordered to be printed; that such additional clerk be paid a salary at the rate of \$185 per month, and such assistant clerks be paid a salary at the rate of \$120 per month, such salaries to be paid out of the contingent fund of the Senate.

#### THE INCOME TAX.

Mr. BORAH. I present an article, published in the Editorial Review, entitled "Shall the income-tax amendment be ratified?" I move that the article be printed as a public document (S. Doc. No. 705).

The motion was agreed to.

#### THE CENSUS.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States (S. Doc. No. 704), which was read and, with the accompanying paper, referred to the Committee on the Census and ordered to be printed: *To the Senate and House of Representatives:*

There is transmitted herewith a statement, prepared by the Bureau of the Census, of the Department of Commerce and Labor, showing the result of the enumeration of continental United States, and of Alaska, Hawaii, Porto Rico, and persons in the military and naval service abroad, according to the Thirteenth Decennial Census, taken as of date April 15, 1910.

WM. H. TAFT.

THE WHITE HOUSE, December 14, 1910.

#### HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on the District of Columbia:

H. R. 20375. An act to authorize certain changes in the permanent system of highways, District of Columbia;

H. R. 21331. An act for the purchase of land for widening Park Road, in the District of Columbia;

H. R. 22688. An act to authorize the extension of Thirteenth Street NW. from its present terminus of Madison Street to Piney Branch Road; and

H. R. 24459. An act to provide for lighting vehicles in the District of Columbia.

H. R. 29157. An act making appropriation for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1912, and for other purposes, was read twice by its title and referred to the Committee on Pensions.

#### OMNIBUS CLAIMS BILL.

Mr. BURNHAM. Pursuant to notice, I desire the Senate to proceed to the further consideration of Senate bill 7971, commonly known as the omnibus claims bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 7971) for the allowance of certain claims reported by the Court of Claims, and for other purposes.

The VICE PRESIDENT. The bill has been read. It is as in Committee of the Whole and open to amendment.

Mr. BURNHAM. This is a committee bill which is presented to the Senate, and I ask consideration first of certain committee amendments.

The VICE PRESIDENT. Is there objection to first considering committee amendments? The Chair hears no objection.

Mr. BURNHAM. On page 14 I move to strike out lines 3 to 5, inclusive, and to insert:

To Jacintha Strother, of New Orleans, in her own right, \$4,000, and as administratrix of the estate of Joseph T. Strother, deceased, late of Pointe Coupee Parish, \$2,750.

The amendment was agreed to.

Mr. BURNHAM. On page 29, line 14, in the item relative to G. S. Lannon, I move to strike out the letter "n" at the end of the word "Lannon" and to insert the letter "m," so as to read "G. S. Lannon."

The amendment was agreed to.

Mr. BURNHAM. On page 127, in line 11, I move to strike out the words "legal representative" and to insert in lieu thereof the words "Washington Loan & Trust Co., administrator."

The amendment was agreed to.

Mr. BURNHAM. On page 163 I move to strike out lines 6 to 9, inclusive, the item relative to William H. Bacon and Annie M. Smith.

The amendment was agreed to.

Mr. BURNHAM. On page 186, in line 21, I move to strike out the words "at the seat of war."

Mr. BURTON. The result of the amendment would be to make the statute more comprehensive, would it not?

Mr. BURNHAM. That is the object and the effect of it.

The amendment was agreed to.

Mr. BURNHAM. On page 187, in lines 6 and 7, I move to strike out the words "15th day of January, 1911," and to insert in lieu thereof the words "1st day of February, 1912."

The amendment was agreed to.

Mr. BURNHAM. On page 188, line 22, I move to strike out the words "15th day of January, 1911," and to insert in lieu thereof the words "1st day of February, 1912."

The amendment was agreed to.

Mr. BURNHAM. On page 189, in lines 6 and 7, I move to strike out the words "15th day of January, 1911," and in lieu to insert "1st day of February, 1912."

The amendment was agreed to.

Mr. BURNHAM. On page 188, in line 12, after the word "remedy," I move to strike out the colon and to insert a comma and the following words:

together with such conclusions as shall be sufficient to inform Congress of the nature and character of the demand, either as a claim, legal or equitable, or as a gratuity, against the United States and the amount, if any, legally or equitably due from the United States to the claimant.

Mr. KEAN. I should like to ask for an explanation of that amendment.

Mr. BURNHAM. On the 25th of June last an amendment was made to the Tucker Act and it incorporates that amendment as a part of the act.

The amendment was agreed to.

Mr. BURNHAM. On page 188, I move to strike out the proviso, beginning in line 12 and ending with the word "war," in line 19, and to insert in lieu thereof the following proviso:

*Provided, That the jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction of or damage to property by the Army or Navy during the war for the suppression of the rebellion, or for the use and occupation of real estate by, or for stores, subsistence, or supplies taken by or furnished to any part of the military or naval forces of the United States in the operations of said forces during the said war.*

The VICE PRESIDENT. Without objection, the amendment will be agreed to.

Mr. HEYBURN. Is the amendment meant to strike out the proviso?

The VICE PRESIDENT. To strike out and insert.

Mr. BURNHAM. The amendment is to strike out and insert.

Mr. HEYBURN. I should like to have the amendment again stated.

The VICE PRESIDENT. What was read is proposed to be inserted. The Secretary will again state the amendment.

The Secretary again read the amendment.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. MONEY. Mr. President, I wish to amend the bill by having inserted the findings of fact in the case of William E. Hunt. I do not know on what page the amendment may properly be inserted. This was a case which was presented by my late colleague, Mr. McLaurin, and was referred by the committee to the Court of Claims for ascertainment of the facts. The ascertainment of the facts was made. The claimant was found loyal, and he was awarded the sum, I think, of \$1,500, or something like that. The opinion of the court with the findings is contained in the little pamphlet which I hold in my hand. The opinion was delivered by Judge Charles B. Howry, of the court, one of the ablest and soundest judges that I know of on that court or any other. This claim came in a little too late for the committee to place it in the omnibus claims bill, but it is here before the Senate now, and I ask the chairman of the committee to accept it. The finding of loyalty is perfectly satisfactory to the court and also as to the merits of the case and the award.

Mr. BURNHAM. Mr. President, the committee, after very great consideration, fixed upon a certain date when they should limit claims to be considered in this bill, and they fixed January 1 last as that date. We have adhered to that throughout the bill, and have barred out all claims that have been filed

since that date. The acceptance of such an amendment would be a very serious disturbance to the bill and a very great injustice to parties who were assured they could not be heard because they had not filed their claims before the 1st of January last.

Mr. MONEY. Do I understand the chairman not to accept this amendment?

Mr. BURNHAM. I can not accept the amendment, because it would be the means of the introduction of a very large number of matters that have come since that date. These claims are coming in every day, and some date has to be fixed against their further presentation; when they shall be barred. We fixed that date, which so far has been adhered to, and I should regret very much to have the date changed or the bar broken down, so to speak.

Mr. MONEY. I have no desire to interfere with the purpose of the committee, and I think it is very proper that they should fix a date that terminates the receipt of these claims; but the fact is that it is a case in which my colleague is especially interested. He is to-day necessarily absent. I have no acquaintance with the case, but the report upon it is here, the finding is here, and the opinion of the judge delivering the opinion of the court itself is here. My colleague, who is entirely familiar with the facts in the case, has been compelled to go to New York to-day. He lives in the town where this claimant resides, and is one of his warmest friends. I would have been very glad on his account that this claim should have been admitted to the bill; but, Mr. President, I recognize the necessity, as the chairman has stated, of making a finish of these things, and so, of course, I must submit.

Mr. FRAZIER. I send to the desk an amendment to the pending bill.

The VICE PRESIDENT. The amendment proposed by the Senator from Tennessee will be stated.

The SECRETARY. On page 27, after line 5, it is proposed to insert the following:

To Edmund W. Williams, executor of the estate of Joseph R. Williams, deceased, \$10,940.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Tennessee.

Mr. BURNHAM. Mr. President, I desire to say, in regard to that claim, that it is one of the findings of the Court of Claims. There are two parts to the claim, one for stores and supplies and the other for use and occupation of property. That part of the claim which is for stores and supplies should have been presented to the Southern Claims Commission, but was not. Therefore, under our rule and under the practice, it is barred out. Further, the claim was not itemized, and it was impossible for the committee to determine what part should be allowed and what part should not. Therefore the committee, being unable to determine how it should divide the parts, have rejected the claim.

It has occurred to the committee that such claims as that might be again referred to the Court of Claims, and the amount ascertained which is for stores and supplies and that which is for use and occupation.

Mr. FRAZIER. Mr. President, as stated by the chairman of the committee, this is a claim, a portion of which is for supplies taken and a portion for rent, use, and occupation of a building in the city of Memphis. The claim was rejected on the ground of laches, that it had not been properly presented to any tribunal. The fact is, that there was no tribunal that had jurisdiction with respect to that part of the claim arising from the use and occupation of property. It appears in the finding of the court and the petition which accompanies it, that the portion of the claim for supplies taken was \$2,000. My amendment is to deduct that \$2,000 from the entire finding, leaving the balance of the claim to cover use and occupation. My amendment is for \$10,000, instead of \$12,000, the amount of the finding of the court. I think it falls clearly within the rule of the committee itself, which is that it will reject these claims on the ground of laches only where there was some tribunal before which the claim could be filed. As to that portion of the claim arising from use and occupation, there was no tribunal before which the claim could be filed, the Southern Claims Commission and the Court of Claims itself not having had jurisdiction of claims of this character until the passage of the Tucker Act in 1887, shortly after which a bill was introduced and the claim was referred to the Court of Claims.

I think with that statement the chairman ought to be willing that this claim might be inserted to the extent of that portion of it arising from use and occupation. I have deducted the other part, as I have stated.

Mr. BURNHAM. It might be difficult to determine just what portion should be deducted. The statement as to the



amount appears only in the petition. The committee have taken only the findings of the court. It would be very wild, it seems to me, if they undertook to act on statements in petitions.

Mr. FRAZIER. I have deducted all that even the petitioners claim as arising from property taken, so that the amount can not be any more than that.

Mr. BURNHAM. I do not know what reason the petitioners might have had for fixing that amount. But there are other objections to the allowance of this claim. It would be a precedent for allowing a great many others of similar character. More or less of laches is involved in this claim, as in many others, and, as a precedent and as opening the doors, the committee feel that this claim should not be allowed.

Mr. FRAZIER. Mr. President, there is no laches in this claim. It is entirely in order under the very statement contained in the report of the chairman of the committee himself. In his report he says this:

On the ground of laches the committee has also rejected every claim that could have been presented to any tribunal, having jurisdiction of its subject-matter, prior to its presentation to Congress and was not so presented, unless it has appeared that the failure to make such presentation was due to minority, poverty, ignorance, or other sufficient cause, and that the claimant has been reasonably diligent in pressing his claim in Congress thereafter.

Mr. President, the Southern Claims Commission, the Quartermaster's Department, and the Court of Claims all held that they had no jurisdiction to pass upon a claim arising from use and occupation. This claim is for buildings in the city of Memphis occupied by the Army, and the rents are set out specifically. There was an understanding at the time that the property was occupied as to the value of the rents, and there is no question on that score. That part of it is not in serious dispute. The only ground upon which this claim was excluded was that the Court of Claims in making its report failed to separate the two parts of the claim, one arising from use and occupation and the other from property taken.

In the amendment which I have offered I have deducted from the findings of the Court of Claims the entire amount which even the petitioners themselves claim to have been due for property taken. The court, of course, could not have found any more for property taken than the claimants themselves said was due. As I have said, I have taken all that out, so that it leaves only the remainder of the findings arising from the use and occupation of the property, which is very much less than the claimants in their petition say is due to them for that use and occupation.

Mr. CULLOM. Will the Senator please give the amount that he desires to go into the bill?

Mr. FRAZIER. Ten thousand nine hundred and forty dollars is the amount arising from the use and occupation of these various buildings in the city of Memphis.

In reply to the chairman of the committee, I will say that the admission of this claim will not open up any new matter. It is differentiated from the ordinary case, because for the use and occupation of the property there was no tribunal to which the claim could be presented, and therefore the doctrine of laches can not apply. It is a well-settled principle of law that where there is no court before which a claimant can present his claim, he can not be charged with laches for not presenting it. Of course it would be a useless performance to present a claim before a court that had judicially determined that it had no jurisdiction to try the case. So that it would be an injustice in this case to exclude that portion of this claim arising from the use and occupation of the property.

Mr. BURNHAM. Mr. President, we have no statement in the findings with regard to what portion should be allowed or disallowed. I wish to say to the Senate that the committee have given very full and careful consideration to this claim, and, so far as I know, there is no dissent from the view taken by the chairman in this matter, except on the part of my friend from Tennessee [Mr. FRAZIER], who is a member of the committee; at least, I am not aware of any, and, if there is, I should be glad to hear it now. The Senate will bear in mind that in the findings there is no separation of the two portions of this claim. The Court of Claims, in the findings, says this:

No evidence has been offered by the claimant under the act of March 3, 1887, bearing upon the question whether there has been delay or laches in presenting such claim or applying for such grant, gift, or bounty, and any facts bearing upon the question whether the bar of any statute of limitation should be removed or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy.

That is all that the committee had before them as a finding upon which they could rely. Upon that finding they could not fail to say that there was laches.

Mr. SMOOT. Mr. President, I call the attention of the Senator from Tennessee to the fact that there are at least a quarter of a million dollars of just such claims as this that have been before the committee. They were before the Claims Committee when we before had pending an omnibus bill, and I remember very distinctly the Senator from Tennessee presenting this very claim. Under the rules that we adopted at the time of reporting the last omnibus claims bill the claim was rejected, and I think that it should be rejected now, because it does not fall within the rules adopted by the committee. If we allow this claim to be put upon the bill there would be at least a quarter of a million dollars more of similar claims presented.

Mr. FRAZIER. Mr. President, the Senator entirely misapprehends this case. His statement with reference to claims amounting to a quarter of a million dollars, which would also be admitted, relates to cases where property was taken. In a case where property was taken the Southern Claims Commission and other tribunals, including the Court of Claims, had jurisdiction, and the doctrine of laches might very properly be applied to cases of that character; but it does not apply to a case of this kind for the use and occupation of property, because those tribunals had no jurisdiction to pass upon claims of that kind. I have eliminated from this claim that portion of it which arises from the taking of property. There is nothing left in it except that portion which is due to these claimants for the use and occupation of their property, and to try that question there was no court before which the claim could be presented until the passage of the Tucker Act in 1887. Shortly thereafter the bill was presented to Congress, and the case was referred to the Court of Claims.

Mr. SMOOT. Mr. President, I fully understand the claim just exactly as the Senator states it; but his own statement of the case must convince every member of the committee and the Senate that the claim does not fall within the rule that has been adopted. This same identical item was presented by the Senator heretofore, as he remembers. I remember the case very well, indeed. It was then rejected, and under the rules that have been adopted we can not do anything else than reject it now.

As far as concerns the statement that the stores and supplies amount to only a quarter of a million dollars, it is a great deal more than that. But I do state that there are about a quarter of a million dollars of just such cases as the Senator from Tennessee has here, where there is no itemized statement made by the Court of Claims, and if he will look at the reports—and no doubt he has many and many a time—he will find that there is no itemized statement, just as the chairman says, and the claim should not be a part of this bill.

Mr. FRAZIER. The claim has had eliminated from it all that part of it which arose from the taking of property, for the settlement of which the Government had provided proper tribunals. So there is nothing left in this claim, except that portion of it arising from the use and occupation of the property; and for the settlement of that character of claims the Government has not provided any tribunal, and there was no tribunal before which it could be tried until Congress gave the Court of Claims jurisdiction, under the Tucker Act, in 1887. Hence it does not come within the rule that the committee itself has adopted.

I do not agree, so far as I am personally concerned, that the rule is a proper one.

I think when the Government has taken the property of a citizen and that fact is established the Government ought not to hide behind any claim of laches or negligence and plead the statute of limitations. But conceding the rule as stated by the chairman to be the proper rule, that where there was a tribunal before which the claim could have been filed and the claimant failed to file his claim, the doctrine of laches shall apply and the claim be excluded, the claim as now presented by this amendment does not fall within that rule. It falls within the other rule with respect to use and occupation of property, and there is no justification, in my judgment, for this claim not being paid, if we are to pay any of these claims.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Tennessee.

The amendment was rejected.

Mr. FRYE. I offer the amendment I send to the desk.

The SECRETARY. On page 15, after line 7, insert the following: Thomas J. Woodward, surviving receiver of the New Orleans Tow Boat Association, \$95,382.

Mr. FRYE. To explain this amendment fully and clearly, I ask the Secretary to read the finding of the court.

The VICE PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

[Senate Document No. 34, Fifty-sixth Congress, second session. Findings of the Court of Claims in the claim of the New Orleans Towboat Association for 54,504 barrels of coal taken at New Orleans. Thomas J. Woodward, sole survivor, receiver, v. The United States.]

I. This claim is not for stores and supplies taken by the military authorities of the United States in a State or part of a State in rebellion, but for stores and supplies taken after the hostile territory had been reduced to the firm possession of the United States.

The city of New Orleans was no longer a part of the Confederacy, but a territory of the United States, and under the sole jurisdiction of its laws. (Desmarest's case, 10 C. Cls., p. 385.)

II. After the proclamation of Maj. Gen. Butler of May 5, 1862, promising protection to persons and property on condition of obedience to the laws of the United States, it follows, as a matter of equitable right, that the claimants in this case should be paid by the Government of the United States the value of the coal when taken for public use. And this in accordance with section 3483 of the United States Revised Statutes.

This section provides that every person whose property is damaged or lost while in the military service, either by impressment or contract, unless he agreed to bear the loss, "shall be allowed and paid the value thereof at the time when such property was taken into the service."

The rule of the common law likewise sustains the finding of the Court of Claims for the value of the coal, 54,505 barrels, at \$1.75 per barrel of 5 bushels. (Findings VII in S. Doc. No. 34.)

This amount is \$95,385.

The coal thus taken was used between May 17, 1862, and December 30, 1862. (Findings II.)

No statute of the United States at that time barred payment for the value of this coal.

The question arises, When did the right to receive payment accrue?

The Court of Claims decided in the case of the Board of Field Officers of South Carolina (20 C. Cls., p. 18) that where no time is fixed for the payment of rent, it must be deemed to be payable as it accrues.

Under this decision and in harmony with the common law in such cases the right to receive payment for the value of this coal remained in abeyance from December 30, 1862, to the enactment of the Bowman Act, a period of 21 years, the executive department of the Government having decided not to make payment of claims arising in the Southern States during the Civil War.

No impairment of the rights is to be found in subsequent legislation. (Sec. 14 aforesaid.)

In the Fifty-sixth Congress, second session, Senator McLaurin, to whom this claim was referred, having considered the same, said in his report:

"These are the findings of facts by the Court of Claims:

"Under the decision of our Supreme Court, in the case of the *Venice* (2 Wall., 259) the United States Government is liable for the value of this coal."

#### AS TO LOYALTY.

This claim was referred to the Court of Claims by resolution of the Senate under the fourteenth section of the act of March 3, 1887, known as the Tucker Act. Under this section of the statute loyalty is not made a jurisdictional question, and the Court of Claims so holds.

Under the act of March 3, 1883, known as the Bowman Act, loyalty is made a jurisdictional question, and the finding of loyalty a condition precedent to the consideration of the claim on its merits.

The evidence in said claim is relied on to prove disloyalty on the part of the said companies and the said association prior to May, 1862; or, to be more precise in statement, before the occupation of New Orleans by the military forces of the United States under the command of Maj. Gen. B. F. Butler, in the same month and year.

Accordingly, the Court of Claims found that the companies composing the association, as well as the association itself, were not loyal to the United States continuously during the War of the Rebellion. (Findings V, VI.)

The phrase, "Was not continuously loyal to the United States during said war" (see Findings V and VI, p. 2) implies that at some time during the war said companies and said associations were loyal to the United States.

The court, therefore, finds that "after the publication of the proclamation of Maj. Gen. B. F. Butler at New Orleans on the 6th day of May, 1862, declaring that 'all rights of property, of whatever kind, will be held inviolate, subject only to the laws of the United States,' it does not appear from the evidence that the claimants, or any one of them, rendered any assistance to the Confederate States." (Findings, V, VI.)

Wherefore it may be predicated that from and after the date of said proclamation—that is, May 6, 1862—said companies and said association were continuously loyal to the United States.

So far, therefore, as the question of loyalty may be discussed and made an issue in this claim it may be regarded in no other light than of an obiter dictum.

Under his proclamation of May 6, 1862, upheld by the decision of the Supreme Court (in the case of the *Venice*, 2 Wall., p. 259), Gen. Butler evidently intended to cast the mantle of oblivion over all past transactions while the city of New Orleans was under the rule of the Confederacy.

No penalties or disabilities are imposed and the continuing present alone is considered.

Mr. BURNHAM. I can not agree to accept the amendment. I desire to state the position of the committee. The committee adopted a hard and fast rule that loyalty should be absolutely necessary to be shown with reference to every claim that was presented to the committee growing out of these war claims.

In the findings of the Court of Claims there is this statement. It seems that several towboat companies combined to form an association. It says:

The Good Intent Towboat Co. was not loyal to the United States continuously during the War of the Rebellion; the Ocean Towboat Co. was not loyal continuously during said war; the Eclipse Towboat Co. was not loyal continuously during said war; the Crescent Towboat Co. was not loyal continuously during said war.

So under the rule of the test of loyalty adopted by the committee, under which the claim would be rejected, we can not now assent to the amendment.

Mr. FRYE. I do not myself see that the question of loyalty has anything to do with this case. The claim accrued after Gen. Butler had taken possession of the city of New Orleans, and he made use of this property for the service of the Government, and the court finds that these men were loyal after Butler had seized the city, after the claim had accrued.

A bill for this purpose has passed the House of Representatives once, has passed the Senate once, has been reported favorably three times, and I desire to say further, as to loyalty, that all of the original claimants are dead, and there is no question of the loyalty of the beneficiaries of this amendment if it should become a law. I can not see, for the life of me, why justice does not require that the Government shall pay this debt, for it is nothing more or less than a debt.

Mr. SMOOT. In the findings of the court, I see it stated that at the beginning of the war this coal was seized by the Confederate authorities, and part of it was used by them. The Government of the United States took the coal from the Confederate authorities, and, as the report shows, the towboat companies themselves were not loyal. In other words, they furnished their boats to the Confederate army during the very time that this coal was being used by our Government after being taken from the Confederate authorities, and I have here a tabulated statement of similar cases that have been before the Claims Committee, and they amount to \$577,757.21. We have invariably rejected the claims, and we feel that under the rules which have been adopted it is impossible to accept this claim on the pending bill.

Mr. FRYE. I do not believe there is a case before the Committee on Claims parallel with this, because this claim, as I said, arose after Gen. Butler had taken the territory of Louisiana under his command. He took this property, and the court holds that there was no disloyalty on the part of these men after Gen. Butler took possession, and certainly there is no claim of disloyalty on the part of the beneficiaries of this amendment if it should become a law, for the war was long over, and none of them had anything to do with the war in any possible way.

Mr. SMOOT. I call the Senator's attention to a few of these claims. For instance, the Johnson claim was after Butler's proclamation. His claim is \$37,351.49, and the Le More claim is for \$309,160.46. I could go along and give the other claims that have already appeared before the committee that are exactly the same as the claim for which the Senator has offered an amendment.

Mr. FRYE. Both the Senate and the House of Representatives have taken an entirely different view, because both have passed this claim, but not in the same session, and therefore it did not become a law. However, the Committee on Claims, both in the House and the Senate, has reported favorably on this claim.

The PRESIDING OFFICER (Mr. Young in the chair). The question is on agreeing to the amendment offered by the Senator from Maine.

The amendment was agreed to.

Mr. CLARKE of Arkansas. I offer an amendment to be added on page 5, after line 11.

The Secretary read as follows:

To Sarah Winter, \$1,380.

Mr. CLARKE of Arkansas. Mr. President, I wish to say just a word in explanation why I offer the amendment to the bill as prepared by the committee.

This claim is in favor of a very old lady at one time a resident of the State of Arkansas. At the time the property was taken she owned a farm near Camden, in the county of Ouachita, Ark. Gen. Steele's forces appropriated nearly all of the property to be found there which was suitable for supplies for the Army marching through the country. The amount of the claim, as presented by her and as fairly established by the evidence, is \$11,500. The court reduced the amount to \$1,380, being the value of the property that was appropriated and used by the Army which otherwise it would have been necessary for the commissary department to supply. There has been a finding of loyalty in her favor by the Court of Claims. The fact that her property was taken and devoted to the use of the United States has been established.

The only point raised is that the claimant has waited so long. There is an explanation of that, and it was made to the Committee on Claims at the last session and to the Senate, and it was deemed satisfactory. It was that at that time she was



engaged in business on her own account. She was a young woman in the country, knowing nothing of the laws, and after the taking of her property she moved to what is now the State of North Dakota, and remained there for many years. Then this matter was brought to her attention by the allowance of claims of other persons similarly situated. That explanation was made to the Committee on Claims, and the claim was included in the bill at the last session. She had no means of prosecuting the claim after the Government had taken her property from her and used it for the purposes of the Government. She left the neighborhood, and the matter was brought to her attention only when she was advised that others similarly situated, who had been made victims of similar appropriation by the officers of the Government, were having claims of this kind presented.

In view of the fact that practically everything she had was taken, that she found it necessary to leave the vicinity and the section and to devote herself to toilsome effort to support herself and such children as she had at that time, it seems to me the claim presents an exception, and the Committee on Claims and the Senate regarded it as an exception heretofore, and I hope the Senate will deem it an exception at this time.

The old lady is about 80 years of age. This was all the property she had. If she can collect this claim it may make the struggle of her declining days easier than some of the intervening days have been.

Mr. BURNHAM. The committee, of course, have taken into account what the Senator has stated, but we have relied upon the findings of the court. We have learned that statements outside might be mistaken statements and we have confined our judgments to the findings of the court. I wish to read just a brief part of the finding of the court in this case:

The claim herein was never presented to any department of the Government prior to its presentation to Congress and reference to this court by resolution of the United States Senate, as hereinbefore stated, and no reason is given why the bar of any statute of limitation should be removed or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy.

I understand there was a Southern Claims Commission open for the consideration of such claims, and the party not only neglected to present the claim to the Southern Claims Commission, but, when with an attorney before the Court of Claims, neglected to show any excuse why she had not presented her claim before the established tribunal. While the answer of laches is somewhat technical, yet it is absolutely necessary in these claims where laches are clearly shown that the committee should stand by the matter of laches as well as other considerations. Therefore the committee can not consent to the allowance of this claim.

Mr. CLARKE of Arkansas. The doctrine of laches was invented to promote justice and prevent injustice. The underlying principle of the doctrine is, where a long delay ensues and the testimony which would reflect the action of the transaction has been lost by various means, the death of witnesses, and removal. In this case it affirmatively appears that laches has not prejudiced the General Government, but has prejudiced this claimant.

Her original claim was for \$12,000. The court found sufficient evidence to show that about \$1,400 of that was for property that had been taken and devoted to the use of the Army. The Government established this affirmatively. That much of the claim has been not only proven to the satisfaction of the court, but a finding to that effect has been made. Therefore, it presents a case where the doctrine of laches has no application, because her adversary in litigation, by its own finding and its own showing, conceded liability for that amount. It stood upon the technicality that no explanation had been made as to why the statute of limitations had not been invoked. We are considering claims brought in this bill on the question of right and justice. The Government is not compelled to pay any claim, except as a sense of justice prompts Congress to take cognizance of them and to pay such items as appear to be just and equitable.

I present this claim upon the theory that the claimant is a woman, who left the neighborhood and knew nothing of her rights. When the Army took her property that was the end of it. She was gone for many years. She has grown old and decrepit, and is practically destitute. The question is, whether or not the showing justifies the Senate in saying that it is not a case where the strict rule of laches should be applied, and upon that theory I submit it to the Senate.

Mr. SMOOT. Mr. President, it is true, as the Senator from Arkansas says, that the claim of Sarah Winter was included in the last omnibus claims bill, which passed the Senate and failed in the House; but I want to call his attention to the fact that it was put upon that bill on the floor of the Senate by an amendment and

was not reported by the committee, and it was in direct opposition to the rule which was adopted by the committee. I believe also it had the effect, among the hundreds of other claims that were put on the bill, to cause the failure of the bill to pass the House. If this claim is allowed, there are hundreds of cases—I may say thousands—which are similar, and there is no case reported from the Court of Claims where laches are any more directly pointed out to the court than in this particular case.

I know, of course, that sentiment goes a long way. Mrs. Winter is an old woman, and no doubt it would help her considerably; but I do not see how the Senate of the United States can make flesh of one and fowl of another. We have said that no such claim shall be allowed in this bill. If the Senate overrules us, they have to do it by voting. I ask the Senate not to do it.

Mr. CLARKE of Arkansas. Mr. President, it is a mild form of parliamentary bulldozing that the Senator from Utah has indulged in. He would argue the Senate into a belief that in doing justice in one case we would establish a precedent which would wreck the Treasury. Every claim that stands on the same equitable consideration as this ought to be in the bill.

The Senator's statement is no answer to the justice of this claim. In the first place, the rule of laches is not an absolute rule. It yields to equitable circumstances in any case. Unless there is an explanation of some sort made, or unless there is a claim of proof on some particular proposition which would go to constitute a case which dammed the adversary, it is never applied, and there is no occasion for its being applied here.

The Senator is not, perhaps, directly familiar with the character in which the bill passed the Senate in the last Congress. There were several prints of the bill. This item was included in the first. Some discrepancy or defect in the bill was discovered by its then chairman, Mr. Fulton, and it was necessary to refer the bill to the committee a second time. When it came out from that reference this claim was omitted, and it was added by the action of the Senate and with the consent of the chairman of that committee. It had been put in by the committee, and was put on by the Senate, and that is what I am seeking to have done now.

Mr. SMOOT. Mr. President, I do not think there will be very much gained by a further discussion on the subject, but I want to say to the Senator that I doubt very much whether Mrs. Winter knew that she had any claim until some attorney went down there on a summer vacation and found that there was such a woman as Mrs. Winter, and heard, perchance, by one of the neighbors that there was a war in that section and that Mrs. Winter was a young woman at that time, and had lost her property during the war; and he hunted up Mrs. Winter and made up the claim as presented here. There are hundreds of others just like it.

Mr. CLARKE of Arkansas. Mr. President, the Senator may be right. I am not advised how she became apprised of it, but the Government found the claim was just, and reported for the payment of \$1,380. That the Court of Claims has recognized as valid. It is not a question how she found out what were her rights, but what she established by legal proof is her right.

Mr. SMOOT. The Court of Claims says she has no right, and so does the committee say she has not; and I hope the Senate will say so.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Arkansas [Mr. CLARKE]. [Putting the question.] The yeas appear to have it.

Mr. CLARKE of Arkansas. I call for a division.

Mr. SMOOT. We had better have a call for a quorum.

Mr. GALLINGER. I think we had better have a yeas-and-nays vote taken. That will develop the presence of a quorum.

The PRESIDING OFFICER. The Senator from New Hampshire demands the yeas and nays on agreeing to the amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. PERKINS (when his name was called). I have a general pair with the Senator from North Carolina [Mr. OVERMAN]. He is absent from his seat, and I withhold my vote.

Mr. SIMMONS (when his name was called). I am paired with the junior Senator from Minnesota [Mr. CLAPP]. I do not see him in his seat, and I withhold my vote.

The roll call was concluded.

Mr. DILLINGHAM (after having voted in the negative). I wish to inquire whether the senior Senator from South Carolina [Mr. TILLMAN] has voted.

The PRESIDING OFFICER. He has not voted.

Mr. DILLINGHAM. Then I will withdraw my vote, as I presume my general pair with that Senator applies.

The result was announced—yeas 16, nays 40, as follows:

## YEAS—16.

|              |           |          |          |
|--------------|-----------|----------|----------|
| Bacon        | Culberson | Johnston | Shively  |
| Bankhead     | Cummins   | Money    | Swanson  |
| Chamberlain  | Foster    | Purcell  | Taylor   |
| Clarke, Ark. | Frazier   | Rayner   | Thornton |

## NAYS—40.

|           |             |          |              |
|-----------|-------------|----------|--------------|
| Bourne    | Carter      | Heyburn  | Root         |
| Bradley   | Clark, Wyo. | Jones    | Scott        |
| Brandegee | Crawford    | Kean     | Smith, Mich. |
| Briggs    | Cullom      | McCumber | Smoot        |
| Bristow   | Dick        | Martin   | Stephenson   |
| Brown     | du Pont     | Nixon    | Sutherland   |
| Burkett   | Flint       | Oliver   | Warner       |
| Burnham   | Gallinger   | Page     | Warren       |
| Burrows   | Gamble      | Penrose  | Wetmore      |
| Burton    | Guggenheim  | Piles    | Young        |

## NOT VOTING—36.

|           |            |             |              |
|-----------|------------|-------------|--------------|
| Aldrich   | Depew      | La Follette | Perkins      |
| Bailey    | Dillingham | Lodge       | Richardson   |
| Beveridge | Dixon      | Lorimer     | Simmons      |
| Borah     | Elkins     | Nelson      | Smith, Md.   |
| Bulkeley  | Fletcher   | Newlands    | Smith, S. C. |
| Clapp     | Frye       | Overman     | Stone        |
| Crane     | Gore       | Owen        | Taliaferro   |
| Curtis    | Hale       | Paynter     | Terrell      |
| Davis     | Hughes     | Percy       | Tillman      |

So the amendment of Mr. CLARKE of Arkansas was rejected.

Mr. SIMMONS. Mr. President, I wish to offer an amendment. On page 127, line 13, after the word "dollars," I move to insert:

*Provided, That all claims for services or expenses of attorneys in the prosecution of this claim shall be approved by the probate court of the District of Columbia before the same shall be paid out of the aforesaid sum.*

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from North Carolina.

Mr. SIMMONS. In explanation of the amendment I desire simply to say that some controversy has arisen among the heirs and the attorneys with reference to the amount of the compensation of the latter, and this amendment seems to have been agreed upon as a method of settling the controversy.

Mr. BURNHAM. I desire to say that the amendment has been submitted to members of the Committee on Claims and it has their approval.

The amendment was agreed to.

Mr. FRAZIER. I offer an amendment on page 27. After line 5 I move to insert:

To Daniel W. Beckham, administrator of the estate of Alexander F. Beckham, deceased, \$7,880.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Tennessee.

Mr. FRAZIER. Mr. President, this is a very remarkable claim, and I think the facts surrounding it differentiate it from the case upon which the Senate has just expressed its view.

The husband and the father of the husband, a baby boy, and three little girls were murdered by the negro soldiers from Island No. 10, just above Memphis. At that time this property was taken. The widow, as a result of that terrible tragedy, sustained such a shock that she would not thereafter allow the subject of the tragedy and of the property taken on that occasion to be discussed in the family. The beneficiary was a minor at the time and remained a minor from that day in 1863 for 17 years.

After he came of age and just before the death of the widow, in 1883, she told him the facts with respect to the taking of this property. Thereupon he qualified as administrator and presented the claim to Congress, and it was referred to the Court of Claims under the bill. The Court of Claims has made a favorable report in which it states that the decedent was loyal during the war and that the amount of \$7,880 is justly due to this claimant.

By reason of the extraordinary facts and circumstances surrounding the case, the fact of the minority of the claimant and of the shock which was felt by the widow, growing out of the tragic occurrence, as the case was not presented until after the minority of the claimant expired, but shortly thereafter the claim was presented, I insist, Mr. President, that the claim clearly falls within the exception which the committee has stated; that is, that they will exclude similar claims if not presented unless minority, poverty, ignorance, or other sufficient cause intervenes.

I think, under the extraordinary surroundings of this case, the Senate should recognize the equity of the claim and the peculiar conditions that prevented the widow herself from presenting the claim. In connection with the minority of the claimant, it ought to recognize the claim as falling within the rule of the committee.

Mr. BURNHAM. Mr. President, will the Senator from Tennessee state as near as he can, if he has it in mind, when this killing or tragedy occurred?

Mr. FRAZIER. It occurred in 1863, I think it was. I am not sure. The negro soldiers went from Island No. 10 above Memphis. I do not remember the exact date.

Mr. BURNHAM. Mr. President, this claim, unfortunately, falls within the rule that we have adhered to as strictly as possible in all cases. It appears, then, that this tragedy, which afforded an extenuation and which prevented the claimant from sooner presenting the claim, was in 1863, but the claim was not presented to any tribunal whatever until January 29, 1906. So we can not help thinking that there was some laches, some inexcusable delay.

Mr. FRAZIER. Mr. President, for 17 years after the date of this tragedy and the taking of this property the claimant was a minor. Seventeen years from 1863 would be 1880. This bill was introduced after that time. Up until shortly before the death of the widow she, as stated before, did not reveal the fact to this boy that the property had been taken because of the terribly tragical circumstances surrounding the death of his father and his minor brother and sisters. Shortly before her death, in 1883, she did state the facts to him. Thereafter he qualified as administrator and brought this claim to Congress.

So, under the rule, I insist that by reason of the shock to this widow growing out of this tragedy and by reason of the minority of the claimant for 17 years after the property was taken, it is differentiated from the case upon which the Senate has expressed an opinion.

The PRESIDING OFFICER. The question is upon the amendment offered by the Senator from Tennessee [Mr. FRAZIER]. [Putting the question.] The yeas appear to have it.

Mr. FRAZIER. I call for a division, Mr. President.

Mr. BURNHAM. I call for the yeas and nays, Mr. President. The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. PERKINS (when his name was called). I announce my pair with the junior Senator from North Carolina [Mr. OVERMAN].

Mr. BACON (when Mr. TERRELL's name was called). I desire to state that my colleague [Mr. TERRELL] is absent from the Chamber, having been called on business to the White House.

The roll call was concluded.

Mr. DILLINGHAM. I again announce my pair with the senior Senator from South Carolina [Mr. TILLMAN]. In his absence I make that announcement for the day.

Mr. WARREN. I wish to announce my pair with the senior Senator from Mississippi [Mr. MONEY].

Mr. FLINT (after having voted in the negative). I ask has the senior Senator from Texas [Mr. CULBERSON] voted?

The PRESIDING OFFICER. He has not.

Mr. FLINT. I have a general pair with that Senator, and therefore withdraw my vote.

The result was announced—yeas 14, nays 37, as follows:

## YEAS—14.

|             |          |            |          |
|-------------|----------|------------|----------|
| Bacon       | Johnston | Purcell    | Taylor   |
| Chamberlain | Newlands | Shively    | Thornton |
| Foster      | Owen     | Swanson    |          |
| Frazier     | Paynter  | Taliaferro |          |

## NAYS—37.

|           |             |          |              |
|-----------|-------------|----------|--------------|
| Borah     | Carter      | Kean     | Smith, Mich. |
| Bourne    | Clark, Wyo. | Lodge    | Smoot        |
| Bradley   | Crawford    | McCumber | Stephenson   |
| Brandegee | Cullom      | Martin   | Sutherland   |
| Briggs    | Cummins     | Nelson   | Warner       |
| Bristow   | Gallinger   | Nixon    | Wetmore      |
| Brown     | Gamble      | Oliver   | Young        |
| Burkett   | Guggenheim  | Page     |              |
| Burnham   | Heyburn     | Penrose  |              |
| Burton    | Jones       | Scott    |              |

## NOT VOTING—41.

|              |            |             |              |
|--------------|------------|-------------|--------------|
| Aldrich      | Davis      | Hale        | Root         |
| Bailey       | Depew      | Hughes      | Simmons      |
| Bankhead     | Dick       | La Follette | Smith, Md.   |
| Beveridge    | Dillingham | Lorimer     | Smith, S. C. |
| Bulkeley     | Dixon      | Money       | Stone        |
| Burrows      | du Pont    | Overman     | Terrell      |
| Clapp        | Elkins     | Percy       | Tillman      |
| Clarke, Ark. | Fletcher   | Perkins     | Warren       |
| Crane        | Flint      | Piles       |              |
| Culberson    | Frye       | Rayner      |              |
| Curtis       | Gore       | Richardson  |              |

So Mr. FRAZIER's amendment was rejected.

Mr. SCOTT. Mr. President, West Virginia probably suffered in proportion as much as any State in the Union during the late Civil War. I have in my charge, I suppose, fifty or a hundred absolutely good claims, as I think, which ought to be paid; but I realize the fact—and I hope other Senators will view the matter in the same light—that if we load this bill down, we shall



not get a bill at all. I would rather have the half loaf the Senator from New Hampshire [Mr. BURNHAM] has given us in the pending bill than not to get any. At some future time I hope, if I am not here, that some Representative from West Virginia may be able to get the other bills through. I think we only endanger the pending bill by offering amendments, and I hope the bill may be allowed to pass.

Mr. BURNHAM. Mr. President, I simply want to say that the committee very much appreciate the remarks made by the Senator from West Virginia [Mr. Scott]. They have been aware of the difficulty suggested and the necessity of keeping this bill within due proportions, so that it might be passed without great burden upon the Treasury. The committee very greatly hope that this will also be the sentiment of the Senate. The committee have done the best they could under the circumstances, and hope the bill will pass as it stands.

Mr. BRISTOW addressed the Senate. After having spoken for 20 minutes,

The PRESIDING OFFICER. Will the Senator from Kansas suspend while the Chair lays before the Senate the unfinished business? It will be stated.

The SECRETARY. A bill (S. 6708) to amend the act of March 3, 1891, entitled "An act to provide for ocean mail service between the United States and foreign ports and to promote commerce."

Mr. GALLINGER. I ask unanimous consent that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. The Senator from New Hampshire asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and it is so ordered. The Senator from Kansas will proceed.

Mr. BRISTOW resumed his speech. After having spoken, in all, for more than two hours, he said:

If agreeable to the Senator from New Hampshire I will suspend and take up the discussion of the remainder of President Pierce's message to-morrow.

Mr. BURNHAM. That is entirely agreeable to me. I desire to give notice, however, that to-morrow after the morning business and at the conclusion of the remarks of the junior Senator from Iowa [Mr. Young] I will ask the Senate to consider further the pending bill.

The PRESIDING OFFICER. The bill will be laid aside temporarily.

[For Mr. BRISTOW's entire speech see Senate proceedings of Friday, December 16.]

#### EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 15 minutes spent in executive session the doors were reopened, and (at 4 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Thursday, December 15, 1910, at 12 o'clock m.

#### NOMINATIONS.

*Executive nominations received by the Senate December 14, 1910.*

##### POSTMASTERS.

##### ALABAMA.

William T. Hogan to be postmaster at Phoenix, Ala. Office became presidential July 1, 1908.

##### CALIFORNIA.

Isaac M. Clippinger to be postmaster at Huntington Beach, Cal., in place of Isaac M. Clippinger. Incumbent's commission expires December 20, 1910.

Conrad Solem to be postmaster at La Jolla, Cal., in place of Conrad Solem. Incumbent's commission expires December 20, 1910.

##### COLORADO.

Newton W. Samson to be postmaster at Mancos, Colo., in place of Wesley A. Martin. Incumbent's commission expired December 13, 1910.

William Sherman Fisk to be postmaster at Meeker, Colo., in place of A. C. Moulton, resigned.

##### CONNECTICUT.

Frank M. Buckland to be postmaster at West Hartford, Conn., in place of Frank M. Buckland. Incumbent's commission expired December 13, 1910.

George W. Merritt to be postmaster at Greenwich, Conn., in place of George W. Merritt. Incumbent's commission expired June 29, 1910.

George T. Schlueter to be postmaster at Darien, Conn., in place of James F. Ballard, deceased.

##### GEORGIA.

Oscar M. Mauldin to be postmaster at Clarksville, Ga. Office became presidential October 1, 1910.

Robert S. Middleton to be postmaster at Vienna, Ga., in place of Robert S. Middleton. Incumbent's commission expired June 29, 1910.

Jewell F. Renfrow to be postmaster at Wrightsville, Ga., in place of Jewell F. Renfrow. Incumbent's commission expires December 19, 1910.

##### ILLINOIS.

Fred R. Brill to be postmaster at Hampshire, Ill., in place of Fred R. Brill. Incumbent's commission expires January 10, 1911.

Jessie Roush to be postmaster at Lena, Ill., in place of John G. Sachs, deceased.

##### INDIANA.

William H. Burris to be postmaster at Milford, Ind., in place of William H. Burris. Incumbent's commission expires December 19, 1910.

Arthur A. Holmes to be postmaster at Sullivan, Ind., in place of Arthur A. Holmes. Incumbent's commission expires January 18, 1911.

Walter F. Jordan to be postmaster at Vanburen, Ind., in place of Lemuel A. Bachelor, resigned.

John Sharp to be postmaster at Frankton, Ind., in place of John Sharp. Incumbent's commission expires December 18, 1910.

David L. Snowden to be postmaster at Andrews, Ind. Office became presidential October 1, 1910.

Roy E. Turner to be postmaster at Dana, Ind., in place of Roy E. Turner. Incumbent's commission expired December 10, 1910.

##### IOWA.

Wallace G. Agnew to be postmaster at Osceola, Iowa, in place of Wallace G. Agnew. Incumbent's commission expired March 14, 1910.

Richard A. Hasselquist to be postmaster at Chariton, Iowa, in place of Richard A. Hasselquist. Incumbent's commission expired April 23, 1910.

William Lawrence to be postmaster at Lawler, Iowa. Office became presidential October 1, 1910.

Walter A. McClure to be postmaster at Greene, Iowa, in place of Walter A. McClure. Incumbent's commission expired June 26, 1910.

W. H. Sheakley to be postmaster at Eldora, Iowa, in place of Charles O. Ryan, resigned.

Milo L. Sherman to be postmaster at Fredericksburg, Iowa. Office became presidential January 1, 1910.

##### KANSAS.

Curt M. Higley to be postmaster at Cawker City, Kans., in place of Curt M. Higley. Incumbent's commission expired May 31, 1910.

Joseph McCreary to be postmaster at Coffeyville, Kans., in place of Edward Rammel. Incumbent's commission expired February 27, 1910.

Harry C. Smith to be postmaster at Hill City, Kans., in place of Edward J. Byerts, resigned.

##### LOUISIANA.

John J. Drost to be postmaster at Sulphur, La. Office became presidential July 1, 1910.

##### MICHIGAN.

C. Guy Perry to be postmaster at Lowell, Mich., in place of C. Guy Perry. Incumbent's commission expired December 13, 1910.

Edwin A. Smith to be postmaster at Wayne, Mich., in place of Edwin A. Smith. Incumbent's commission expired June 18, 1910.

Clara Spore to be postmaster at Rockford, Mich., in place of Judson M. Spore, deceased.

##### MINNESOTA.

Anton O. Lea to be postmaster at New Richland, Minn., in place of Anton O. Lea. Incumbent's commission expired December 13, 1910.

##### MISSOURI.

Ulysses Grant Evans to be postmaster at Farmington, Mo., in place of Ulysses Grant Evans. Incumbent's commission expired December 6, 1910.

George N. Gromer to be postmaster at Pattonsburg, Mo., in place of George N. Gromer. Incumbent's commission expired December 10, 1910.

Leonard W. Kelly to be postmaster at Moberly, Mo., in place of John W. Scott. Incumbent's commission expires December 19, 1910.

Andrew J. Siebert to be postmaster at Ste. Genevieve, Mo., in place of Andrew J. Siebert. Incumbent's commission expired December 13, 1910.

#### NEW JERSEY.

William B. Goodenough to be postmaster at Farmingdale, N. J. Office became presidential October 1, 1910.

#### NEW YORK.

Warren D. Burtis to be postmaster at Woodmere, N. Y., in place of William H. De Mott, removed.

B. S. Preston to be postmaster at Roxbury, N. Y., in place of Silas S. Cartwright, deceased.

Amelia L. Tyler to be postmaster at Hurleyville, N. Y., in place of Amelia L. Tyler. Incumbent's commission expires January 12, 1911.

#### OHIO.

Thomas J. McVey to be postmaster at East Youngstown, Ohio. Office became presidential July 1, 1910.

#### OKLAHOMA.

William L. Jones to be postmaster at Boley, Okla. Office became presidential October 1, 1910.

#### PENNSYLVANIA.

James C. Jacobs to be postmaster at Burnham, Pa., in place of James C. Jacobs. Incumbent's commission expired December 13, 1910.

Franklin Wisener to be postmaster at Beaver Falls, Pa., in place of Franklin Wisener. Incumbent's commission expired June 15, 1910.

#### SOUTH DAKOTA.

Charles S. Harter to be postmaster at Elk Point, S. Dak., in place of John F. Reid. Incumbent's commission expired June 28, 1910.

#### TEXAS.

Americus C. Nafus to be postmaster at Mesquite, Tex., in place of Americus C. Nafus. Incumbent's commission expired December 11, 1910.

Edward E. Nelson to be postmaster at Blum, Tex. Office became presidential October 1, 1910.

Victor C. Nelson to be postmaster at Panhandle, Tex. Office became presidential July 1, 1910.

Tom Richards to be postmaster at Sherman, Tex., in place of Tom Richards. Incumbent's commission expired May 7, 1910.

#### WISCONSIN.

Mark W. Rowell to be postmaster at Hartland, Wis., in place of Mark W. Rowell. Incumbent's commission expires December 20, 1910.

### CONFIRMATIONS.

*Executive nominations confirmed by the Senate December 14, 1910.*

#### COLLECTORS OF CUSTOMS.

Whitefield McKinlay to be collector of customs for the district of Georgetown, D. C.

G. Edward Schulz to be collector of customs for the district of Milwaukee, Wis.

#### ASSISTANT SURGEONS, PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Warren F. Draper to be assistant surgeon in the Public Health and Marine-Hospital Service.

Julian M. Gillespie to be assistant surgeon in the Public Health and Marine-Hospital Service.

#### CONSUL GENERAL.

Maxwell Blake to be consul general at Tangier, Morocco.

#### CONSULS.

William W. Handley to be consul at Naples, Italy.

Carl Bailey Hurst to be consul at Lyon, France.

Leo J. Keena to be consul at Florence, Italy.

Hunter Sharp to be consul at Belfast, Ireland.

Edward D. Winslow to be consul at Plauen, Germany.

#### DIRECTOR OF THE MINT.

George E. Roberts to be Director of the Mint.

#### DEPUTY AUDITOR.

Frank H. Davis to be Deputy Auditor for the Treasury Department.

#### COLLECTORS OF INTERNAL REVENUE.

Henry S. Jackson to be collector of internal revenue for the district of Georgia.

Samuel M. Fitch to be collector of internal revenue for the first district of Illinois.

#### APPRAISER OF MERCHANDISE.

Frank W. Morse to be appraiser of merchandise in the district of Tampa, Fla.

#### ASSISTANT TREASURER.

Len Small to be assistant treasurer at Chicago, Ill.

#### RECEIVERS OF PUBLIC MONEYS.

Charles B. Powers to be receiver of public moneys at Chamberlain, S. Dak.

Vivian L. Jones to be receiver of public moneys at Independence, Cal.

Shields Warren to be receiver of public moneys at Gainesville, Fla.

#### REGISTER OF THE LAND OFFICE.

Henry S. Chubb to be register of the land office at Gainesville, Fla.

#### POSTMASTERS.

##### ALABAMA.

Felix O. Dudley, Clanton.

Cyrus R. O'Neal, Andalusia.

Ida O. Tillman, Geneva.

##### CONNECTICUT.

S. Ford Seeley, Washington Depot.

##### DELAWARE.

George B. Ruos, Bridgeville.

Winfield S. Walls, Georgetown.

##### FLORIDA.

John W. Garwood, Monticello.

Horatio L. Cubberly, Inverness.

Anderson W. Jackson, White Springs.

Louis C. Lynch, Gainesville.

##### GEORGIA.

William T. Adkins, Edison.

Walter Akerman, Cartersville.

Roy A. Lifsey, Barnesville.

John T. A. McCollum, Conyers.

Eliza C. Tift, Tifton.

##### IOWA.

Harry D. Clinton, Russell.

John C. Foster, Hedrick.

William H. Jennings, Garden Grove.

E. L. Newton, Anita.

Robert B. Oldham, Greenfield.

##### KANSAS.

W. D. Casey, Atchison.

Mary G. Dykes, Lebanon.

James M. Hallett, National Military Home.

Melville H. Soper, Horton.

H. C. Tucker, Holton.

James R. Young, Oakley.

##### MAINE.

Joshua W. Black, Searsport.

Edward P. Mayo, Fairfield.

##### MASSACHUSETTS.

Frank C. Barrows, New Bedford.

Godfrey Knight, Avon.

##### MICHIGAN.

Everett N. Clark, Wyandotte.

Arthur J. Gibson, Central Lake.

Milo N. Johnson, Northville.

##### MINNESOTA.

Daniel A. Malloy, Walnut Grove.

##### MISSOURI.

George M. Dallas, Pleasant Hill.

James H. Nay, Holden.

##### MONTANA.

Max Jacobs, East Helena.

##### NEBRASKA.

Frank A. Prucha, Howell.



## NEW JERSEY.

Herbert Appleby, Old Bridge.  
John S. Bergen, Cranbury.  
William Chambers, New Egypt.

## PENNSYLVANIA.

Charles F. Hageman, Apollo.  
Sallie M. McNitt, Mifflin.  
B. Paul Sheeder, Stowe.

## SOUTH DAKOTA.

Edgar M. Bentley, Colman.  
Charles F. Graves, Ashton.  
George W. Kingsley, Northville.  
Elva D. Kirkpatrick, Letcher.  
James W. Post, Rapid City.  
Clarence E. Talbott, Lamro.  
Frederick M. Webb, Hitchcock.

## WEST VIRGINIA.

Charles V. Hooton, Rowlesburg.  
Edgar C. James, Glen Jean.  
James H. McComas, Barboursville.

## WYOMING.

William Rogers, Green River.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 14, 1910.

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D., as follows:

Our Father in Heaven, we thank Thee for every noble aspiration, for every high resolve, for every manly act which leads on to a betterment of our homes, our Government, our world; for we realize that much of the suffering of this life is of our own making.

So many gods, so many creeds,  
So many paths that wind and wind;  
But just the art of being kind,  
Is all that the sad world needs.

Help us, we beseech Thee, to be noble, to be generous, to be kind, that Thy Kingdom may come, in the Spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

## LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. BINGHAM, from the Committee on Appropriations, reported the bill (H. R. 29360) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1912, and for other purposes, which was read a first and second time and, with the accompanying report (No. 1760), ordered to be printed and referred to the Committee of the Whole House on the state of the Union.

Mr. FITZGERALD. Mr. Speaker, I reserve all points of order on the bill.

The SPEAKER. The gentleman from New York reserves all points of order upon the bill.

Mr. BINGHAM. Mr. Speaker, I desire to give notice that I shall call the bill up to-morrow morning.

## ORDER OF BUSINESS.

The SPEAKER. This being calendar Wednesday, the gentleman from Pennsylvania [Mr. Moon] is recognized to call up the bill which was under consideration on last calendar Wednesday.

Mr. MOON of Pennsylvania. Mr. Speaker—

Mr. HUGHES of New Jersey. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise? Mr. HUGHES of New Jersey. For the purpose of raising the question of consideration against the pending bill, called up by the gentleman from Pennsylvania [Mr. Moon].

The SPEAKER. The gentleman from New Jersey raises the question of consideration upon this bill. The Chair will hear the gentleman.

Mr. HUGHES of New Jersey. Mr. Speaker, I can not enlighten the Chair very much. I do not think the Chair cares to hear me, so far as enlightenment is concerned. I am satisfied to stand here and hold the floor while the Chair is informing himself from another source. My understanding of the rules is that the question of consideration may always be raised against any bill.

If the Chair cares to know anything about my object in raising the question, it is that under the rule this bill will probably

take up every calendar Wednesday between now and the end of the session.

Mr. TAWNEY. The gentleman has not read the bill, then. We ought to pass it to-day.

Mr. MOON of Pennsylvania. I want to say, in reply to that statement, Mr. Speaker, made by the gentleman from New Jersey, that it is entirely without warrant. There is no reason why this bill, properly considered, should take more than two or three calendar Wednesdays.

At the time that I made my opening statement about the bill I explained that while it contains 203 pages, 90 of those pages are devoted entirely to the geographical location of the courts and to the times of holding courts, respecting which there can be no amendment or discussion.

Mr. OLMSTED. Mr. Speaker, I desire to make the point of order against the motion of the gentleman from New Jersey [Mr. HUGHES] that it is made after the consideration of the bill has commenced, and that it is too late to raise the question of consideration. Consideration of this bill was commenced one week ago to-day.

Mr. HUGHES of New Jersey. I should like to be permitted to state that debate was had upon this proposition before any point of order was made.

The SPEAKER. Still the Chair thinks this is hardly such debate as renders the point of order too late. The Chair heard the gentleman for the instruction of the Chair.

Mr. HUGHES of New Jersey. Will the Speaker at this stage permit an interruption, and permit me to call his attention to the fact that, in addition to discussing the point of order, both the gentleman from Pennsylvania [Mr. Moon] and myself discussed the motion itself on its merits?

The SPEAKER. The recollection of the Chair—of course the Chair stands ready to be corrected—is that the debate must be on the merits in order to come within the rule, but the Chair will hear the statement of the gentleman.

Mr. FITZGERALD. Mr. Speaker, the rule itself is quite clear on the question.

The SPEAKER. The Chair will hear the gentleman further, if he desires to be heard, or any other gentleman.

Mr. HUGHES of New Jersey. On what point?

The SPEAKER. On the point of order.

Mr. HUGHES of New Jersey. Mr. Speaker, as far as the point of order is concerned, there are two sides or branches of that question to be argued.

The SPEAKER. The Chair would prefer, however, to hear discussion upon the merits.

Mr. HUGHES of New Jersey. The gentleman made his point of order after the gentleman from Pennsylvania and myself had discussed this proposition as to the merits.

Mr. OLMSTED. Mr. Speaker, the question of consideration is not debatable at all.

The SPEAKER. Precisely. Therefore the Chair would be glad to hear the gentleman, if he has anything further to submit, as to whether the question of consideration on calendar Wednesday can be interposed touching a bill under consideration.

Mr. HUGHES of New Jersey. Mr. Speaker, I will yield the floor for the purpose of permitting the author of calendar Wednesday to inform the Chair on this subject.

Mr. FITZGERALD. Mr. Speaker, the rule provides that—when any motion or proposition is made the question, Will the House now consider it? shall not be put unless demanded by a Member.

If it were not for that rule, under the rules of the House and the general parliamentary law, as soon as the gentleman from Pennsylvania moved to proceed to the consideration of his bill it would be the duty of the Chair to submit the question to the House as to whether the House would consider the bill at this time. The mere fact that the bill comes over from a previous calendar Wednesday does not change the rule that is effective as to all other bills. As the previous question has not been ordered on this bill, it does not come up as unfinished business with a status that prevents the raising of the question of consideration. In the procedure affecting bills coming up by the call of committees before the establishment of calendar Wednesday it was in order on any succeeding day when an attempt would be made to proceed to the consideration of a bill if it were a bill to be considered in the House to raise the question of consideration. With a bill to be considered in the Committee of the Whole House on the state of the Union the same result was arrived at by a question being taken on a motion that the House resolve itself into Committee of the Whole House on the state of the Union in order to consider the bill.

This House, as the Chair has often declared, has an unquestioned right to determine for itself under its rules what business it will transact. If the integrity of calendar Wednesday